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8 **UNITED STATES DISTRICT COURT**  
9 **CENTRAL DISTRICT OF CALIFORNIA**

10 MATTHEW WEINBERG, RABBI  
11 DOVID GUREVICH, NIR HOFTMAN,  
ELI TSIVES,

12 Plaintiffs,

13 v.

14 NATIONAL STUDENTS FOR JUSTICE  
IN PALESTINE, JOHN DOE #1,  
15 PRESIDENT OF THE UCLA CHAPTER  
OF SJP, AJP EDUCATIONAL  
16 FOUNDATION, INC., D/B/A  
AMERICAN MUSLIMS FOR  
PALESTINE, OSAMA ABURSHAID,  
17 HATEM AL-BAZIAN, FACULTY FOR  
JUSTICE IN PALESTINE NEWTWORK,  
18 UC DIVEST COALITION, WESPAC  
FOUNDATION, PEOPLE'S CITY  
19 COUNCIL,

20 Defendants

21 Case No.: 2:25-cv-03714-MCS-JC

22 [Assigned to the Honorable Mark C.  
Scarsi – Courtroom 7C]

23 **DEFENDANT PEOPLE'S CITY  
COUNCIL'S REPLY IN SUPPORT  
OF THEIR MOTION TO DISMISS  
FIRST AMENDED COMPLAINT**

24 Date: Dec. 15, 2025  
Time: 9:00 a.m.  
Courtroom: 7C

25 Complaint Filed: April 25, 2025

1 **I. INTRODUCTION**

2 Plaintiffs' Opposition fails to compensate for the glaring deficiencies in their Ku  
3 Klux Klan Act claim against Defendant People's City Council's (PCC). Plaintiffs'  
4 confused attempts to circumvent the First Amendment, repetition of conclusory  
5 allegations, and distorted interpretations of binding and persuasive case law reveal that they  
6 cannot articulate specific, plausible factual allegations showing PCC violated § 1985(3).  
7 Accordingly, the FAC must be dismissed without leave to amend as to PCC.

8 First, Plaintiffs' allegations against PCC rest exclusively on speech and expressive  
9 activity protected by the First Amendment. Second, Plaintiffs do not plausibly plead the  
10 elements of either the deprivation or hindrance clause of § 1985(3). Finally, Plaintiffs lack  
11 standing because none of their alleged injuries are traceable to PCC. Further amendment  
12 would be futile.

13 **II. ARGUMENT**

14 **1. Plaintiffs' Claim Against PCC is Barred by the First Amendment.**

15 As much as PCC can discern Plaintiffs' argument, it appears to be: (1) PCC  
16 supported, encouraged, solicited, and "trained" people supporting the protest; (2) some  
17 individuals at the protest allegedly deprived Plaintiffs of civil rights; therefore (3) all  
18 supporters of the protest were part of a civil conspiracy. Plaintiffs' theory is antithetical to  
19 this country's First Amendment.

20 The Supreme Court has long prohibited imposing civil conspiracy liability on  
21 supporters of, organizers of, and participants in a protest for torts (or crimes) of others.  
22 *NAACP v. Claiborne Hardware Co.*, 458 U.S. 886, 908–34 (1982) (assessing attempt to  
23 impose conspiracy liability on 146 civil rights activists for torts and crimes arising from  
24 actions connected to civil rights protests).

25 Every allegation about PCC in Plaintiffs' complaint involves PCC's speech in  
26 support of the protest. None of its speech encourages, supports, and advocates for denying  
27 anyone's civil rights based on their race (although even that speech would be protected).  
28 Plaintiffs' opposition hardly makes an attempt to rescue their pleading, either. Instead, they

1 lean into their theory that speech supporting—or “promoting” or “soliciting” or  
2 “training”—the protest is evidence of a conspiracy to violate Plaintiffs’ civil rights. Opp’n  
3 at 23.

4 Plaintiffs’ theory of liability would rip a wide hole in the First Amendment. Because  
5 it’s inevitable that a broad-based political or social movement will include someone  
6 involved in a tort or criminal act. Patriots assaulted loyalists as they gathered support for  
7 American independence. Abolitionists harbored fugitive slaves. The civil rights movement  
8 had its celebrated civil disobedience. Pro-life activists blockaded reproductive health  
9 clinics and murdered doctors. But the actions of a few did not extinguish the rights of  
10 everyone else who was part of those movements. The reverse heckler’s veto Plaintiffs seeks  
11 to impose—where one bad actor can strip the speech and associational rights of everyone  
12 who ostensibly shares a positionality—sweeps broadly. And it threatens loudly.

13 Plaintiffs attempt to force PCC’s speech into First Amendment exceptions for  
14 soliciting a crime or incitement fail. Opp’n at 23–25.

15 First, PCC soliciting supplies for the protest is not within the First Amendment’s  
16 prohibiting on soliciting a crime. “Setting aside fairly specific solicitations, aimed at  
17 particular victims or particular criminal actions, [even] speech that advocates crime can  
18 only be punished if it is intended to and likely to cause imminent criminal conduct.” Eugene  
19 Volokh, *The “Speech Integral to Criminal Conduct” Exception*, 101 Cornell L. Rev. 981,  
20 994 (2016); *see also id.* at 993–94 (distinguishing between soliciting a *particular* murder  
21 and constitutionally-protected “[c]ounseling murder in the sense of urging killing in the  
22 abstract (whether of capitalists, police officers, thieves, or whoever else)"). Plaintiffs do  
23 not allege PCC solicited anyone to deny these Plaintiffs their civil rights on the basis of  
24 their race; without such an allegation, PCC’s solicitation of support for the protest is  
25 protected by the First Amendment. *Id.*

26 Second, Plaintiffs’ attempt to cast PCC’s May 1, 2024—““KETTLE THE COPS  
27 CHALLENGE—LAPD F\*\*CK OFF”—as incitement also fails. For starters, Plaintiffs are  
28 not LAPD officers and none of them allege any injury from that date. FAC ¶ 135

1 (Hoffman not there on May 1); 137–39 (Weinberg feared even going near protest); 142–  
2 43 (Gurevich’s sole injury came a month later); 146 (Tsives, too, avoided the protest by  
3 May 1).

4 Even so, PCC’s tweet does not fit the incitement exception. Incitement essentially  
5 protects against setting off the passions of riled-up mob. *See* John Stuart Mill, *On Liberty*  
6 100 (London, John W. Parker & Son, 2d ed. 1859) (distinguishing between “[a]n opinion  
7 that corn-dealers are starvers of the poor … when simply circulated through the press  
8 [from] when delivered orally to an excited mob assembled before the house of a corn-  
9 dealer”). The imminence prong of the incitement doctrine necessarily requires a sequence  
10 of events close in time: the assemblage of those who can be incited, then inciting speech,  
11 and then the near-immediate listeners’ reaction. So when a protest mob that took over a  
12 street to block police cars holding some of their fellow protesters was pushed off the street  
13 by police, and one of the protesters yelled, “We’ll take the fucking streets later,” there was  
14 no incitement. *Hess v. Indiana*, 414 U.S. 105, 106–09 (1973). The speech did not incite the  
15 originally street-taking—it was already in progress—and there no imminence for any  
16 future action (“later”). *Id.* at 108–09. Plaintiffs fail to even allege PCC’s tweet preceded  
17 the supposed “Battle of UCLA” or that anyone involved read the tweet contemporaneously  
18 with the alleged “Battle.” Plaintiffs make no plausible allegation of imminence, thus failing  
19 to plead incitement.<sup>1</sup> While crude and offensive to many, PCC’s tweet is protected.  
20 *Claiborne Hardware*, 458 U.S. at 928 (“[s]trong and effective extemporaneous rhetoric  
21 cannot be nicely channeled in purely dulcet phrases,” and often includes “spontaneous and  
22 emotional appeals for unity and action in a common cause”).

23 Plaintiffs’ argument that protected speech can be used to establish motive does not  
24 help them either because it is a corollary to the rule that protected speech cannot serve as  
25 the basis for the tort; definitionally, that’s what it means for speech to be protected.  
26 Plaintiffs attempt to have the exception swallow the rule and base their claim against PCC

27 <sup>1</sup> In fact, the imminence requirement has led some courts to question whether written speech can ever  
28 constitute incitement. *Herceg v. Hustler Magazine, Inc.*, 814 F.2d 1017, 1023 (5th Cir. 1987); *see also*  
SENECA, ON ANGER, Book 2, Section 29 (“The greatest remedy for anger is delay.”).

1 on its protected speech. PCC's support of the UCLA protest was protected speech and this  
2 Court dismiss Plaintiffs' claims against it.

3 **2. Plaintiffs Fail to Properly Plead that PCC Entered into a Conspiracy.**

4 Plaintiffs' "extensive allegations of communications and interactions between" PCC  
5 and other Defendants consist of conclusory allegations, allegations of independent parallel  
6 behavior, and one coordinated social media post. Opp'n at 17:8-9. These allegations fail to  
7 "state specific facts to support the existence of the claimed conspiracy" involving PCC.  
8 *Burns v. County of King*, 883 F.2d 819, 821 (9th Cir. 1989).

9 Nothing in the FAC identifies who PCC agreed with, when, or about what (beyond  
10 posting the same image on social media). Opp'n at 17:13-14; *see Sines v. Kessler*, 324 F.  
11 Supp. 3d 765, 794 (W.D. Va. 2018) ("The promotional poster at most demonstrates an  
12 agreement to promote the rally"). As in *Sines*, allegations that PCC's leaders host a podcast  
13 which discussed the encampment, promoted the encampment, communicated to their  
14 followers about the encampment, and attended the encampment "do not plausibly allege  
15 that Defendant [PCC] joined the alleged conspiracy." 324 F. Supp. 3d at 794. Plaintiffs  
16 twist the facts of *Sines*, claiming a surviving defendant simply "functioned as an  
17 organizer," Opp'n at 18:4, it was also alleged that he "directed and incited physical assaults  
18 and violence, the use of open flames, and the intimidation of minority residents," *Sines*,  
19 324 F. Supp. 3d at 785. Likewise, the defendant Plaintiffs claim "simply 'attended the  
20 event,'" Opp'n at 18:7, was also a "key participant[] in the violence," *Sines*, 324 F. Supp.  
21 3d at 790. Plaintiffs make no even remotely similar allegations against PCC.

22 Plaintiffs' vague and conclusory allegations about activity at the encampment  
23 (which are unclear if they refer to PCC) do not suggest that PCC reached any agreements  
24 with any other groups or individuals and make no allegations that PCC or its members  
25 engaged in any specific conduct at the encampment. Allegations that non-students  
26 participated in the encampment or that the encampment was built quickly say nothing about  
27 PCC reaching any agreement. *See* Opp'n at 8:24-28, 9:17-18; 17:16-18.

28 The decision in *Gaetz v. City of Riverside*, 722 F. Supp. 3d 1054, 1069 (C.D. Cal.

1 2024), is directly on point: mobilizing supporters or lobbying others to speak out and take  
2 action does not plausibly allege conspiracy. While PCC relied on its *Gaetz* in their motion,  
3 Plaintiffs ignore it.

4 As in *A Soc'y Without a Name v. Virginia*, 655 F.3d 342 (4th Cir. 2011), Plaintiffs  
5 here offer “allegations [that] amount to ‘parallel conduct and a bare assertion of a  
6 conspiracy’” and lack factual specificity, such as “the persons who agreed to the alleged  
7 conspiracy, the specific communications amongst the conspirators, or the manner in which  
8 any such communications were made.” *Id.* at 347.

9 **3. Plaintiffs Do Not Plead the Requisite Discriminatory Purpose.**

10 While Plaintiffs claim that “[t]he overriding purpose of the encampment … was  
11 antisemitic violence and the exclusion of Jews,” Opp’n at 19:11-12, the allegations they  
12 rely upon to support this assertion make no mention of PCC or PCC’s purpose. *See id.* at  
13 9:22-11:12. Plaintiffs offer no nonconclusory allegation that PCC intended to target Jewish  
14 individuals to deprive them of or interfere with their constitutional rights. At most,  
15 Plaintiffs allege that PCC was “merely [] aware of a deprivation of right that [they]  
16 cause[d], and [] merely accept[ed] it,” which is insufficient. *Bray v. Alexandria Women’s  
17 Health Clinic*, 506 U.S. 263, 276 (1993).

18 Plaintiffs’ attempt to distinguish *Bray*, *Kurd*, and *Operation Rescue* makes  
19 immaterial distinctions. PCC relies on each to explain the standard for the intent to deprive  
20 of a right requirement, and that *Bray* was decided after trial, the particular sufficiency of  
21 the *Kurd* pleadings, and that the court found for the plaintiffs in *Operation Rescue*, are all  
22 irrelevant to the applicability of the standard. The *StandWithUs* plaintiffs’ allegations that  
23 members of MIT’s Palestine solidarity encampment violated § 1985(3)’s deprivation  
24 clause by conspiring to “engage in, promote, and incite racial, religious, and ethnicity-  
25 based harassment and violence” motivated by discriminatory animus against Jewish and  
26 Israeli members of the MIT community are striking similar factually and legally to the  
27 present allegations, and any differences in the specifics of the alleged harms are immaterial.

28 Dkt. 69-1 Ex. 1 at ¶¶ 271-280.

1 Binding and persuasive authority makes clear that Plaintiffs cannot plead the  
2 required purpose for a claim under the deprivation or hindrance clause.

3 **4. Plaintiffs Do Not Adequately Allege Racial Animus.**

4 Plaintiffs' allegations offer no facts plausibly suggesting PCC was motivated by  
5 racial animus. Their conclusory statements that the protest movement was driven by  
6 "antisemitic animus" or "racial and ethnic animus against Jews" are nothing more than  
7 legal conclusions "cast in the form of factual allegations." FAC ¶¶ 106, 155; *Fayer v.*  
8 *Vaughn*, 649 F.3d 1061, 1064 (9th Cir. 2011) (per curiam); *see StandWithUs Ctr. for*  
9 *Legal Just. et al. v. Mass. Inst. of Tech.*, No. 24-1800, 2025 U.S. App. LEXIS 27390, at  
10 \*18 (1st Cir. Oct. 21, 2025). The allegation Plaintiffs rely upon to argue that they  
11 adequately allege racial animus make no mention of PCC, PCC's animus towards any  
12 race, or PCC's intent behind engaging in the alleged conspiracy. *See* Opp'n at 9:22-  
13 11:12. In fact, the Opposition fails to identify one single fact that suggests that PCC held  
14 and acted upon racial animus against Jewish individuals.

15 **5. Plaintiffs Fail to Plead a Purpose of Interfering with State Law  
16 Enforcement.**

17 Plaintiffs do not allege facts sufficient to support a plausible inference that PCC  
18 engaged in a conspiracy with the purpose of hindering law enforcement from protecting  
19 Jewish individuals' constitutional rights. Plaintiffs' argument hinging on the protest's  
20 location says nothing about any intent by PCC to interfere with law enforcement's  
21 protection of Jewish individuals' rights nor any intent by anyone involved with the  
22 encampment to interfere with law enforcement. To the contrary, this allegation supports an  
23 inference that the organizers in fact attempted to avoid interacting with law enforcement.  
24 Plaintiffs' list of actions taken by encampment participants also lack any alleged  
25 connection to PCC's intent. PCC's alleged contemporaneous tweet regarding kettling law  
26 enforcement also conveys no intent to conspire to interfere with law enforcement, much  
27 less any intent to do so with the goal of interfering with Jewish people's constitutional  
28 rights.

1 Plaintiffs allege no facts that suggest that PCC engaged directly with law  
2 enforcement, physically interfered with law enforcement's response to the encampment,  
3 expressed any intent to do so, or encouraged others to do so to interfere with Jewish  
4 people's constitutional rights.

5 **6. Plaintiffs Fail to Properly Plead that People's City Council Prevented or  
6 Hindered Law Enforcement from Protecting Plaintiffs' Rights Under the  
7 Hindrance Clause.**

8 An alleged goal of denying Jewish students' constitutional rights is not  
9 synonymous with an alleged injury to Plaintiffs' person or property because of any  
10 conspiracy to prevent or hinder law enforcement from securing their rights, as Plaintiffs  
11 appear to argue. Plaintiffs do not allege that they were harmed because law enforcement  
12 officers were unable to or refused to protect them. Plaintiffs do not and cannot plead any  
13 actual injury to their person or property because of any conspiracy to prevent or hinder  
14 law enforcement from securing their rights.

15 **7. Plaintiffs Lack Standing to Sue PCC.**

16 Plaintiffs' traceability argument fails because they are unable to allege a "line of  
17 causation between the [alleged] illegal conduct and injury" that is more than attenuated.  
18 *Allen v. Wright*, 468 U.S. 737, 752 (1984). Plaintiffs' claim of causal link is at best  
19 hypothetical and tenuous because they fail to identify a single nonconclusory allegation in  
20 their FAC from which the Court could trace Plaintiffs' injuries back to PCC's alleged  
21 conduct, regardless of the number of links in the chain. For example, Plaintiffs do not  
22 offer any nonconclusory fact-based allegations of the motivation behind the unidentified  
23 third-party actors who allegedly harmed Plaintiffs. *See* FAC ¶¶ 131-148. Nor do Plaintiffs  
24 allege that *anyone* at or associated with the encampment took *any* action or even attended  
25 the encampment *because of* PCC's alleged conduct. Following Plaintiffs' logic, the Court  
26 would be forced to "speculat[e] about the decisions of independent actors," which is  
27 insufficient to establish standing. *Clapper v. Amnesty Int'l. USA*, 568 U.S. 398, 414  
28 (2013). In particular, there is clearly no causal connection between Plaintiff Gurevich's

1 alleged injuries and PCC's alleged conduct because Plaintiffs do not allege any facts that  
2 link PCC to the June 10 events.

3 *O'Handley* offers no support to Plaintiffs, as they claim. In *O'Handley*, the  
4 defendant took an action that directly connected the plaintiff to the actor that caused the  
5 harm (Twitter) when the defendant used Twitter's tool that enables outside actors to report  
6 suspected violations to directly report the plaintiff's social media post to Twitter, and  
7 Twitter immediately limited access to his post and subsequently suspended the plaintiff's  
8 account. *O'Handley v. Weber*, 62 F.4th 1145, 1153-55, 1162 (9th Cir. 2023). Plaintiffs do  
9 not allege that PCC ever engaged directly with or about Plaintiffs, that PCC ever engaged  
10 with the individuals who are alleged to have harmed Plaintiffs, that PCC made anyone at  
11 the encampment aware of Plaintiffs, that PCC suggested anyone at the encampment  
12 commit the alleged harms against Plaintiffs, or even that PCC was aware of Plaintiffs'  
13 existence. The fact that there were multiple steps in the causal link in *O'Handley* is not  
14 sufficient to render it applicable to the present case.

15 Nor is *Abdulaziz*. The Court in *Abdulaziz* held that the defendant's alleged conduct  
16 was fairly traceable to the plaintiff's harm because the harm would not have occurred  
17 absent the defendant's wrongful conduct: "had Twitter not been negligent in maintaining  
18 its security system and hiring and managing its employees, KSA operatives could not  
19 have accessed his personal information." *Abdulaziz v. Twitter*, No. 21-16195, 2024 U.S.  
20 App. LEXIS 28169, at \*3 (9th Cir. Nov. 6, 2024). Plaintiffs make no such allegations that  
21 their injuries would not have occurred absent PCC's alleged conduct or that anyone under  
22 PCC's authority or control caused Plaintiffs' alleged injuries.

23 Finally, "[e]ach Plaintiff need not be able to point to an injury incurred from each  
24 Defendant" when the acts of the defendant's co-conspirators are "reasonably foreseeable."  
25 *Sines*, 324 F. Supp. 3d at 795. Plaintiffs do not allege that their injuries caused by  
26 reasonably foreseeable acts of the other Defendants or were reasonably foreseeable  
27 consequences of the conspiracy. *See Pinkerton v. United States*, 328 U.S. 640, 647-48  
28 (1946) ("A different case would arise if the substantive offense committed by one of the

1 conspirators . . . was merely a part of the ramifications of the plan which could not be  
2 reasonably foreseen as a necessary or natural consequence of the unlawful agreement.")

3 Similarly, Plaintiff Weinberg does not have standing to sue PCC because Plaintiffs  
4 do not allege that Weinberg suffered an injury in fact. *See Conner v. Sticher*, 801 F.2d  
5 1266, 1268 (11th Cir. 1986) (plaintiff's subjective belief that harm may occur provides no  
6 basis for relief). Plaintiffs appear to argue that because Weinberg may have standing to  
7 seek forward-looking relief (which this lawsuit does not seek, *see* FAC at 65), he  
8 automatically has standing to seek compensatory damages. Plaintiffs do not and cannot  
9 offer any authority to support this absurd and incorrect argument. Plaintiffs do not have  
10 standing to sue PCC.

11 **III. CONCLUSION**

12 For the foregoing reasons, Defendant People's City Council requests that the Court  
13 dismiss the First Amended Complaint as to People's City Council without leave to  
14 amend.

16 Dated: December 5, 2025

Respectfully Submitted,

17 HADSELL STORMER RENICK & DAI LLP

19 By: /s/ Rebecca Brown  
20 Dan Stormer  
21 Rebecca Brown  
22 Attorneys for Defendant  
23 PEOPLE'S CITY COUNCIL

## **L.R. 11-6.2 Attestation**

The undersigned, counsel of record for Defendant People's City Council, certifies that this brief contains 2946 words, which complies with the word limit of this Court's Standing Order.

Dated: December 5, 2025

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